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BEFORE THE
Federal Communications Commission
WASHINGTON, D.C.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

CC Docket No. 96-61

In the Matter of)
)
Policy and Rules Concerning the)
Interstate, Interexchange Marketplace)
)
)
Implementation of Section 254(g) of the)
Communications Act of 1934, as amended)

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**COMMENTS OF
AMERICAN TELEGRAM CORPORATION**

April 25, 1996

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SUMMARY

American Telegram Corporation (“American Telegram”) hereby comments on the Commission’s proposal to adopt a mandatory tariff forbearance policy for non-dominant interexchange carriers. American Telegram supports the mandatory detariffing of non-dominant interexchange carriers’ rates and charges. American Telegram agrees that rate tariffing is no longer necessary, and that the objectives of just, reasonable, and not unjustly or unreasonably discriminatory rates can be achieved effectively through market forces and the administration of the complaint process.

American Telegram strongly opposes, however, the mandatory detariffing of non-dominant interexchange carriers’ terms and conditions of service. Permitting carriers to file tariffs containing terms and conditions both enhances the efficiency of the telecommunications industry and makes it more likely that these terms and conditions are just, reasonable, and nondiscriminatory. Tariffs bring certainty to relationships between carriers and their casual, non-contract customers, serving as an authoritative legal guide in the event of a dispute over service. Permissive tariffing also makes the relationships between non-dominant carriers and their contracting subscribers more efficient, allowing these carriers to simply incorporate by reference the terms and conditions described at length in their tariffs. By avoiding prolonged negotiations with each individual customer, both providers and customers have additional resources to invest in their products and services.

Finally, a system of permissive tariffing is more likely to produce just, reasonable, and nondiscriminatory terms and conditions than a scheme reliant on privately negotiated contracts.

Tariffs are open to public scrutiny, and awareness of this fact leads most carriers to establish terms and conditions in conformance with the Commission's rules and regulations.

Thus, American Telegram hereby respectfully urges the Commission to adopt a policy of mandatory detariffing of non-dominant interexchange carriers' rates and charges, along with a system of permissive tariffing for these carriers' terms and conditions.

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| Communications Act of 1934, as amended |) | |

**COMMENTS OF
AMERICAN TELEGRAM CORPORATION**

American Telegram Corporation (“American Telegram”) hereby comments on the Commission’s proposal to adopt a mandatory tariff forbearance policy for non-dominant interexchange carriers.^{1/} American Telegram commends the Commission’s efforts to eliminate the unnecessary regulatory burdens currently imposed on providers of telecommunications services. It believes these efforts will lead to increased competition, innovation, and efficiency in the burgeoning telecommunications industry.

American Telegram supports the mandatory detariffing of non-dominant interexchange carriers’ rates and charges. Tariffing requirements for rates and charges are no longer necessary to ensure that non-dominant interexchange carriers’ rates and charges are just and reasonable, and are not unjustly or unreasonably discriminatory. Rate tariffing is also no longer necessary to protect consumers. As the Commission points out, firms lacking market power “simply cannot

^{1/} In the Matter of Policy and Rules Concerning the Interstate, Interexchange Marketplace, Implementation of Section 254(g) of the Communications Act of 1934, as amended, Notice of Proposed Rulemaking, CC Docket No. 96-61, FCC 96-123 (March 25, 1996). The Commission has established modified procedures for filings related to the Telecommunications Act of 1996.

price their services in ways which . . . contravene Sections 201(b) and 202(a) of the [Communications] Act.” Rather, the objectives of just, reasonable, and not unjustly or unreasonably discriminatory rates can be achieved effectively through market forces and the administration of the complaint process. In fact, the publication of prices through tariffs actually interferes with the market mechanism, facilitating collusive pricing by enabling competing carriers to easily monitor each others’ rates.

In contrast, American Telegram strongly opposes the mandatory detariffing of non-dominant interexchange carriers’ terms and conditions of service. Allowing carriers to file tariffs containing terms and conditions both enhances the efficiency of the telecommunications industry and makes it more likely that these terms and conditions are just, reasonable, and nondiscriminatory. First, tariffs bring certainty to relationships between carriers and their casual, non-contract customers. In the event of a dispute over service, both carriers and these customers, as well as the relevant adjudicative body, can look to the tariff as an authoritative legal guide. Without a tariff, these parties would likely face an uncertain and chaotic legal landscape.^{2/} Moreover, these casual customers, comprising a significant proportion of business for many carriers, would lose what is likely their most valuable protection against the abusive practices of some providers.

In addition, a scheme of permissive tariffing also makes the relationships between carriers and their contracting subscribers more efficient. In these contracts, non-dominant carriers are able to simply incorporate by reference the terms and conditions described at length in their tariffs. To alter these terms, carriers can simply amend these tariffs. By avoiding

^{2/} For instance, where customers pay for services through a credit card, carriers might find themselves subject to the billing policies of Visa and MasterCard. Such policies might conflict with carriers’ practices and thereby prevent carriers from obtaining payment.

prolonged negotiations with each individual customer, transaction costs are minimized, and both providers and customers have additional resources to invest in their products and services. A policy of mandatory detariffing of terms and conditions would actually impose a new burden on these carriers.


Finally, a system of permissive tariffing is more likely to produce just, reasonable, and nondiscriminatory terms and conditions than a scheme reliant on privately negotiated contracts. Tariffs are open to public scrutiny, and awareness of this fact leads most carriers to establish terms and conditions in conformance with the Commission's rules and regulations. In addition, where a tariff term is successfully challenged as unreasonable, unjust, or discriminatory, the resulting amendment is immediately applicable to all customers of that carrier. Without tariffs for terms and conditions, each customer must itself establish the illegitimacy of its own, individual contract.

Thus, American Telegram hereby respectfully urges the Commission to adopt a policy of mandatory detariffing of non-dominant interexchange carriers' rates and charges, along with a

system of permissive tariffing for these carriers' terms and conditions. With this combination, the Commission can most effectively promote the competitive energies of the telecommunications industry.

Respectfully submitted,

AMERICAN TELEGRAM CORPORATION

A handwritten signature in dark ink, appearing to read "Stephen J. Berman", is written over a horizontal line.

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Dated: April 25, 1996

CERTIFICATE OF SERVICE

I, Elinor W. McCormick, a secretary to the law firm of Fisher Wayland Cooper Leader & Zaragoza L.L.P., hereby certify that on this 25th day of April 1996, I served a true copy of the foregoing "**COMMENTS OF AMERICAN TELEGRAM CORPORATION**" by hand delivery, upon the following:

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